

REMARKS

Claims 38, 72-75, 83, 85, 100, 101, 104, and 112 have been canceled herein without prejudice to future prosecution. Claim 86 has been amended to include the limitations of the claims from which it depended (claim 73 and 85, which are canceled). Claims 6, 39, and 102 have been amended to delete recitation of Agrobacterium-mediated delivery of a vector or vectors.

Rejection of claims 6-37, 39-45, 47-71, 73-96, 98-100, 102-103, 105-106, and 108-112 under 35 U.S.C. § 112, first paragraph

The referenced claims were rejected for failing to enable Agrobacterium-mediated delivery of a vector or vectors. While the applicants vigorously disagree for the reasons of record, method claims 6, 39, and 102 have been amended to delete recitation of Agrobacterium-mediated delivery of a vector or vectors. Thus, the rejection is obviated as to claims 6, 39, 102, and all claims depending therefrom.

With regard to claims 76-82, 84, 86-96, the applicants traverse this rejection. These claims are drawn to transgenic plants, and all that § 112 requires with regard to enablement is a single method by which one of ordinary skill in the art can make and use the claimed plants. The Office Action acknowledged on page 2 that these claims (and, indeed, all the rejected claims) are enabled for microprojectile-mediated method of transformation; whether the specification also enables Agrobacterium-mediated transformation is irrelevant to the issue of whether these plant claims are enabled. In view of the foregoing therefore, the applicants respectfully submit that claims 76-82, 84, and 86-96 are fully enabled and request reconsideration and withdrawal of this rejection.

Rejection of claims 73-75, 83, and 85 under 35 U.S.C. § 112, first paragraph

The referenced claims were rejected for failing to satisfy the written description requirement with regard to the recitation of a foreign gene or genes. The applicants respectfully traverse. The claims are drawn to transgenic plants, not foreign genes. Thus, the issue is whether the applicants were in possession of transgenic plants comprising a foreign gene, not whether they were in possession of all foreign genes. The applicants respectfully submit that the specification demonstrates that the applicants were in fact in possession of transgenic plants comprising a foreign gene and, therefore, the specification meets the requirements of § 112, first paragraph.

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Nevertheless, these claims have been canceled without prejudice to further prosecution, thereby obviating this rejection.

Rejection of claims 101 and 104 under 35 U.S.C. § 103

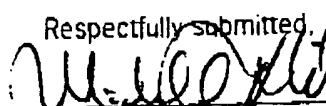
The referenced claims were rejected for obviousness. The applicants respectfully traverse this rejection for the reasons of record. The claims have been canceled without prejudice to further prosecution, however, thereby obviating this rejection.

Objection to claims 38 and 72 for depending from rejected claims

Claims 38 and 72 have been canceled, thereby obviating the objection.

In view of the foregoing amendments and remarks, the applicants believe the remaining claims are in condition for allowance. If there are any questions or comments regarding this Response or application, the Examiner is encouraged to contact the undersigned attorney as indicated below.

Respectfully submitted,



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